

NOT FOR PUBLICATION

JAN 24 2008

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARIO CARTAGENA-CASTILLO,

Defendant - Appellant.

No. 05-50816

D.C. No. CR-05-00561-WMB

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
William Matthew Byrne, Jr., Senior District Judge, Presiding

Submitted January 14, 2008**

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Mario Cartagena-Castillo appeals from the 36-month sentence imposed following his guilty-plea conviction for being an illegal alien found in the United States following deportation, in violation of 8 U.S.C. § 1326(a) and enhanced by

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

(b)(2). We have jurisdiction pursuant to 28 U.S.C. § 1291, and we affirm.

Cartagena-Castillo contends that *Almendarez-Torres v. United States*, 523 U.S. 224 (1998), is invalid. We reject this contention. *See United States v. Maciel-Vasquez*, 458 F.3d 994, 995-96 (9th Cir. 2006).

Cartagena-Castillo also contends that the condition of his supervised release that requires him to report to the probation office if he re-enters the United States violates his Fifth Amendment right against self-incrimination. This argument is foreclosed by *United States v. Abbouchi*, 502 F.3d 850, 859 (9th Cir. 2007).

AFFIRMED.